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**The Crux of the Matter:  
the Intersection of Deliberative Traditions in the Wren Cross Controversy**

A thesis submitted in fulfillment of the requirement  
for Honors in the Department of Government from  
The College of William and Mary

by

K. Bailey Thomson  
April 16, 2010

Accepted for Honors • \_\_\_\_\_  
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Until the lions have their own historians,  
tales of the hunt will glorify the hunter.  
*African Proverb*

## ***For the Lions***

In October 2006, William and Mary president Gene Nichol spoke privately with Louise Kale, the Executive Director of William and Mary's old campus, and asked her to remove the brass altar cross from the Wren Chapel. He contended that the presence of a Christian cross in the chapel indicated an exclusively Christian space in a secular university. He confirmed this belief in his November 17, 2006 e-mail to students, where he wrote,

Though we haven't meant to do so, the display of a Christian cross -- the most potent symbol of my own religion in the heart of our most important building -- sends an unmistakable message that the chapel belongs more fully to some of us than to others. That there are, at the college, insiders and outsiders. Those for whom our most revered place is meant to be keenly welcoming, and those for whom presence is only tolerated. That distinction, I believe to be contrary to the best values of the college (Petkosfy 2006).

The cross, according to Nichol's new policy, would be displayed only for religious ceremonies at the request of the ceremony participants.

Controversy raged surrounding Nichol's decision to remove the cross, creating a two-sided debate. Nichol supporters championed his notions of religious diversity and equal access to university spaces. The "Save the Wren Cross" constituency (STWC), on the other hand, cited historical and faith-based reasons to return the cross permanently to the altar, noting the College's long-time connection with local Bruton Parish and the Episcopal Church at-large. STWC gathered more than 17,000 signatures on a petition to reverse Nichol's orders. The petitioners included not only current students and alumni of the College, but also individuals unaffiliated with William and Mary, many of whom identified as conservative evangelical Christians.

In his "State of the College" address on January 25, 2007, Nichol announced his intention to form a committee to examine religion at William and Mary. The Board of

Visitors released a statement during their February 2007 meeting endorsing the president's committee. According to a press release from the College's news archive, the BOV stated,

In the spirit of inclusion, we are heartened that the president has initiated the opportunity for a broad discussion with the College community to address the question of religion on our public campus and to explore whether there is a policy involving the cross in Wren Chapel that better balances the goals of inclusiveness and diversity with our religious historical origins and the centrality of tradition in our character. We fully support this dialogue and intend to be involved with the process and its conclusions (Whitson 2007).

The language of “dialogue” and “broad discussion” employed in the BOV statement serves to acknowledge conversation as a communal norm to appease the public. Sincere in their intentions or not, the BOV clearly understood the campus community's expectation that multi-constituent conversation would take place to resolve the Wren controversy. Furthermore, the insinuation that tradition is significant to the university indicates an implicit understanding that William and Mary is and should be governed by the customs that have shaped the College.

Professors Jim Livingston, a liberal professor of religious studies, and Alan Meese, a conservative law professor, chaired the William and Mary Committee on Religion in a Public University, which was tasked with making general recommendations about religion in public universities. According to the February 2007 Board of Visitors (BOV) meeting minutes, the committee was “composed of two students, three faculty members, one representative from the Admission Office, five alumni and the Rector of Bruton Parish Church, Reverend Hollerith” (Board of Visitors 2007). The committee began to investigate chapel display policies at other universities, and they planned to host speakers and to meet with campus religious groups and alumni inside and outside of

Virginia. However, Rector Powell cut their plans short by requesting results as soon as mid-spring 2007. In an interview in March 2007, Professor Meese stated that though the committee was tasked with examining religion in public schools, it chose to focus on the Wren cross given “an expedited process” (Jaschik 2007). The committee made its recommendation after its second official meeting, a decision that surprised even some committee members. A March 2007 report from *Inside Higher Ed* aptly summarized the frantic decision-making process implemented:

In February, the board announced that it would wait for the recommendations of a panel appointed by Nichol to examine the cross in the context of larger questions about religion and public universities. That report was expected in April. But Tuesday's announcement said that the panel recommended the return of the cross immediately, and that the professors would then turn to the larger questions raised about religion and public higher education. Under the new policy, the cross will be returned for permanent display in a glass case and will be taken out when used in religious services. People of other faiths will be allowed to have their sacred objects also stored in the chapel (Jaschick 2007).

On March 7, 2007, the Board of Visitors announced the recommendation of the committee and its intention to fully comply.

The Wren Chapel cross shall be returned for permanent display in the chapel in a glass case. The case shall be located in a prominent, visible place, accompanied by a plaque explaining the College's Anglican roots and its historic connection to Bruton Parish Church. The Wren sacristy shall be available to house sacred objects of any religious tradition for use in worship and devotion by members of the College community (William and Mary Alumni Association 2007).

This press release compared William and Mary to “other universities with historic chapels, including the University of Virginia” (William and Mary Alumni Association 2007).

## Introduction

This thesis is not concerned with the cross removal itself, so much as it analyzes the method through which Nichol made his decision and the deficiency in deliberation by all involved constituencies during and after the controversy. A December 2006 *Flat Hat* staff editorial identifies the issue at hand:

Whatever you think of College President Gene Nichol's decision to remove the cross from the Wren Chapel altar until it is requested, the secretive way the policy change was made is an embarrassment to the ideals of this college. The decision to change the cross policy was made without input from students, faculty or alumni, and was not even officially commented on until media pressure forced a reaction from the president. The College should be a model for vigorous debate and transparency, not a place where decisions are made in the dark with the hope that they will never be brought to light (The Flat Hat 2006).

The argument developed in this thesis is that the decision to remove the cross was illegitimate on the grounds that it violated this institutional norm calling for a thoughtful, multidimensional deliberation. In the same vein, the post-decision battle between those who both agreed and disagreed with Nichol gave little consideration to opposing viewpoints and ultimately failed to resolve the controversy in a way that acknowledged the varied traditions housed within the Wren Chapel. Throughout the controversy, it was evident that the William and Mary community placed a high value on deliberative decision-making, even when involved parties often violated this institutional norm in practice. I argue that this tradition of deliberation, if respected, is critical to the institutional health of the College.

Michael Foley and Bob Edwards posit that an active civil society is one in which “reciprocity is learned and enforced, trust is generated, and communication and patterns of collective actions are facilitated” (Foley and Edwards 1996). This trust and communication is indispensable to building mutual understanding, thereby converting

voluntary association and civic engagement into collective action by a deliberative body. In a college setting, this suggests that regular deliberation amongst campus community members is a good in itself, allowing students, faculty, and staff to practice healthy decision-making habits. Deliberation, even if it fails to resolve an issue, allows involved parties to contest norms, review power dynamics, and successfully negotiate challenges.

If democratic action *does* follow civic engagement and mutual understanding, then this reliance upon consensus legitimates the decision made. Furthermore, the validity of this collective action is increased by the heterogeneity of arguments and by the admittance of both pluralism and authority into deliberative space. According to Cass Sunstein, when a deliberating body accurately represents the population influenced by a particular decision, “the outcomes of these deliberations will not be a product of the arbitrariness that can be introduced by skewed argument pools” (Sunstein 2003, 93). In the same vein, Robert Goodin argues that collective acts taken in a deliberative democracy are presumed to be “democratically legitimate only so far as they emerge through external-collective processes of deliberation involving a free and equal exchange among everyone who will be affected by them” (Goodin 2003, 54).

I do not make universal claims, then, about the practicality of deliberation or suggest a comprehensive solution to the challenge of religious symbols in public universities. Instead, I contend that the Wren cross controversy reveals tensions that were not sufficiently articulated by involved parties at the time of the episode and to suggest that the College’s own traditions of deliberation were well-suited to addressing these tensions. By raising each of these latent tensions to the level of a question and pointing out the failure to deliberate, I seek to compel my readers to thoughtfully avow the



tension-dwelling reality in which they live and to consider the role that deliberation might play in living effectively in this reality.

To understand the conflicts and ambiguities present in the cross controversy and the Wren Chapel itself, one must place them in the context of the conflicts and ambiguities present in the relevant histories and traditions that govern Wren as a space. The debates concerning the Wren Chapel fell into three rough categories: arguments about the purpose of universities, claims about the history of the Anglican Church, and inferences drawn from constitutional scholarship. As I will show, the participants in the Wren controversy, intentionally or otherwise, grounded their arguments in assumptions about these three traditions and their relevance to the Wren Chapel and the College.

I trace the duality and conjugation of *authority* and *pluralism* in each of these traditions over time and the tensions present as authority and pluralism vacillate to and from dominance. *Authoritative* arguments emphasize that there is a single person or perspective that should dominate the resolution of a controversy. *Pluralistic* arguments, on the other hand, acknowledge a range of legitimate people or perspectives. I submit that to engage in effective deliberation is not just to acknowledge the premise that a plurality of views are legitimate, but also to admit elements of authority as the structure in which pluralism thrives. I suggest that discourse within and among these traditions, or *meta-deliberation*, allows cross-paradigmatic exploration for a more holistic decision-making process and means of illuminating the identity of spaces.

Deliberation, particularly in the Wren Chapel case, has value because all the components present in the controversy are deliberative themselves. Each of the traditions I discuss is composed of authoritative and pluralistic elements, so the deliberative

resolution must also embrace authoritative and pluralistic voices.

### **The Players' Positions**

My objective is to advocate for multidimensional, cross-paradigmatic deliberation that considers *all* the traditions present in a given space in order to determine the identity of that space. The challenge of the Wren Chapel controversy, and the reason for its usefulness as a case study, is that all parties involved approached the issue from truncated perspectives. Instead of considering Anglican history, the purpose of universities, and constitutional law, they limited their arguments to one sector and, thus, weakened the potential for deliberation. Others made fragmentary arguments that bridged or muddled the three interpretive traditions. Furthermore, within the traditions they chose to emphasize, they failed to acknowledge the longstanding internal debates I unearthed in my research. Perhaps the best and least obvious example is the College's inconsistent historical relationship with the Episcopal Church, which many claimed incorrectly to be monolithic, but which I reveal to be complicated and ambiguous even after the College became public in 1906.

President Nichol located his arguments for cross removal primarily in the realm of constitutional law. As a lawyer and civil libertarian, he argued that the presence of the Wren cross compromised the rights of non-Christian students to utilize the Wren Chapel for religious or secular events. He grounded his perspective in references to the Free Exercise clause of the Constitution and freedom of assembly, but he used layman's terms to translate law jargon into a persuasive argument. In a December 2006 e-mail to students, Nichol wrote, “it is the very vitality and the increasing diversity of our religious

community that calls for a more encompassing and accessible use of the Wren” (G. Nichol, personal communication, December 20, 2006). He showed an obvious preference for pluralism over authority in the campus community, advocating against an establishment of religion on campus through the privileging of certain religious symbols over others. The irony, of course, is that his embrace of pluralism was not reflected in his decision-making methods, where he acted unilaterally. Therefore, he advocated pluralism while failing to embrace a meta-deliberation that would have respected both the authoritative and pluralistic claims in the debate.

Interestingly, the Save the Wren Cross (STWC) constituency attempted a constitutional law argument that used much of Nichol's language of tolerance but made the opposite point. In a press release regarding the return of the cross to the altar, STWC leaders wrote, “We are especially grateful that the unanimous judgment of William and Mary's Religion Committee to return the cross is an unambiguous repudiation of the destructive idea that William and Mary should ever tolerate intolerance towards religious symbols” (Save the Wren Cross 2007). If Nichol claimed to be protecting pluralistic free exercise, then so his opponents: they asserted that the removal of the cross actually threatened Christians' free exercise on campus and that religious disestablishment was discriminatory and unconstitutional. That STWC claimed to champion the “American tradition of religious pluralism” puzzled Nichol supporters (Save the Wren Cross 2007).

Nichol largely eschewed the historical context in which the Wren cross stood, perhaps giving too little consideration to the role of the Anglican Church in the history of the College. He did not understand the Wren Chapel as a chiefly religious site, but placed primacy on its public status. On the other hand, STWC relied heavily on historical

references to strengthen its argument. It stressed an ongoing relationship with the American Episcopal Church and with local Bruton Parish. Susan Godson, Bruton Parish's church historian, recorded an account of the cross remembering that “the college's mission was to Christianize Indians and train young men for ministry in the Anglican Church (Godson 2006). Despite the fact that the cross did not exist in the Chapel until the 1930s, during Bruton’s restoration, STWC steadfastly appealed to the symbol's historical significance in defining the chapel. In reality, the cross arrived at Wren only seventy years before the controversy, but STWC used language that implied that its legacy was as ancient as the College itself. STWC actively proclaimed that removing the cross from permanent display inhibited the fundamental Christian character of the chapel.

Neither party made overt claims about the purpose of universities, though both Nichol and STWC made obvious implicit assumptions about the College. Nichol often referenced William and Mary's status as a *public* institution of higher education, dedicated to promoting free intellectual expression, rather than a particular truth. STWC fought against the secular humanism present in the College's liberal arts tradition, implying that this represented an authoritative claim that violated the free exercise of the STWC faithful. Some members of the STWC constituency threatened to withhold donations to William and Mary based on the removal of the Wren cross, demonstrating a corporatist perspective on universities. Neither position recognized the complicated coexistence of authority and pluralism in university participation and governance. Furthermore, both positions extrapolated the identity of the Wren Chapel to the overall identity of the College without acknowledging that all William and Mary facilities are not

defined by the same traditions.

Overall, the lack of flexibility in both Nichol's and STWC's positions limited flexibility in the Wren Chapel's identity. By failing to engage in meaningful dialogue about the traditions contained within the space, they missed the Wren Chapel's tendency toward accommodation, a characteristic honed in its Anglican history, multipurpose university functions, and public status. The sections that follow show the tensions present in each of these traditions.

### **Authority and Pluralism in Universities**

The identity of the Wren Chapel is ambiguous, in part, because of its existence on the grounds of a public university. Therefore, its use must reflect both the purpose of the state-owned institution of higher education in which it is situated and the tensions inherent in that purpose. In this section, I investigate how authority and pluralism are manifested in the objectives of universities, and as such, manifested in the Wren Chapel. Two main premises govern my arguments about the function of universities. First, true universities welcome intellectual exploration and free speech. Second, public space governed by deliberative traditions in a democracy is itself deliberative by virtue of the tensions that inhabit it. Thus, a public university funded by a democratic state must facilitate deliberation and intellectual freedom.

### *Public Space in Democracies*

Space is a key element to deliberative bodies as they engage in the evaluation and reform of their respective communities. Unfortunately, like the players in the Wren Chapel controversy, existing literature on space takes a largely homogeneous and one-

dimensional approach. For example, Marcel Henaff and Tracy Strong make useful distinctions between public, private, sacred, and common space by discussing the type and quality of relationships that people are capable of cultivating in each space. Public space is both socially and physically open, whereas common space, which is physically unclaimed, often fails to facilitate social interaction. Sacred space primarily nurtures a relationship with the divine, rather than with other humans (Henaff and Strong 2001, 3-4). However, Henaff and Strong fail to acknowledge the possibility that certain spaces may fulfill multiple categories during specific events or in general use. The Wren Chapel, for instance, has frequently operated as both public and sacred.

Buildings themselves are at the heart of the ability to deliberate. The space in which discussion occurs guides the tone and content of the conversation and has the ability to limit or facilitate it. Public forums must themselves be manifestations of the rights to expression afforded to citizens. University of Texas at Austin professor Laura Stein writes, “Bringing public forum law under the fold of democratic theory requires that the courts consider the relevance of some property to democratic processes. As several scholars have suggested, one way to achieve this end is to ask whether the property in question has an intrinsic public character that requires that the public's rights be protected” (Stein 2000). The state, then, is responsible for ensuring that public universities, which undoubtedly have this intrinsic public character, are subject to democratic processes. Stein continues, “Participatory democratic theory insists that the state has a positive duty and a vital interest in providing forums for democratic speech” (Stein 2000).

Public space in a democracy must be egalitarian in nature, allowing each of the

members present at a deliberation within a public space to see and hear each of the other members. Marcel Detienne illustrates this point by citing deliberative space in the French Revolution, noting that “Only on October 22, 1791, does a deputy, Quatremere de Quincy, ask for and succeed in getting the room laid out in a more or less circular manner or, rather, in the shape of an ellipse, such that each member of the assembly might be seen by each other. Here is the first suggestion of egalitarian space” (Detienne 2001, 42-43). This egalitarian space recognizes mainstream and dissenting opinions and respects pluralist and authoritarian voices in the fray.

However, the concept of egalitarian space does not necessarily acknowledge the power inequalities present therein. Participants must be able to be seen and heard, as much as they see and hear. Furthermore, while respecting elements of authority in the form of deliberative space, the space must affirm pluralization, an emerging set of differences and evolving pluralism. William Connolly writes, “The key challenges to a pluralist culture are first to cultivate critical responsiveness to new movements of pluralization and then to negotiate modified relations of coexistence as new identities cross the magic threshold of enactment” (Connolly 1995, xvi). Participants must value established and evolving notions of identity. Syracuse University professor Don Mitchell emphasizes the need for structure and organization in facilitating effective deliberation within a given public space.

Public space is imagined to be the site of political inclusiveness, a place in which interested individuals can come together to debate and to voice dissent. According to the democratic ideology enshrined in what the Court has come to call 'public forum doctrine,' the free exchange of ideas can occur only when public space is orderly, controlled (by the state or other powerful interests that can maintain order), and safe (Mitchell 2003, 128).

Having a safe place to speak assumes respect and acknowledgement from opposing and

concurring parties.

Furthermore, Mitchell identifies space by the aspects of it that can be controlled by the state or other governing body:

The second level of space is *dedicated* public space-- such as plazas in front of federal buildings or portions of public college campuses-- which a government or state agent has designated as open to public speech and assembly. Like traditional public forums, these spaces can be regulated in terms of time, place, and manner, but not in terms of speech content. But unlike traditional public forums, the state has specifically enabled these spaces and thus has a greater right to remove them from public use (Mitchell 2003, 48).

He alludes to the physical claim that Henaff and Tracy cite in their classification of space, but fails to clarify that a state's ability to remove space from public use does not guarantee a state's ability to bias a space to a particular historical or religious tradition.

### *Public Space in Universities*

Public universities, as a specific type of state-owned space, pose an interesting dilemma in the arena of co-existing authority and pluralism. On one hand, students and faculty alike pursue radical intellectual exploration via lectures, seminars, and research. On the other hand, the university is necessarily governed by administrators who set curricula, provide codes of conduct, and are charged with maintaining the safety of the students, faculty, and staff of the university. This inherent paternalism and corporatism threatens free expression by limiting the content that students learn and the activities in which they can participate. Furthermore, funding restrictions implemented by alumni donors and university trustees limit the projects that faculty can undertake. Professor Christopher Newfield writes that “the public university’s democratizing mission... has been eclipsed by financial concerns” (Newfield 2008, 9). He laments the public university’s decreasing “traditional and distinctive mission of broad social and cultural



development” (Newfield 2008, 10). Thus, while traditions of academic freedom encourage pluralistic practices, other factors encourage authoritative control.

Professor Charles Anderson summarizes this paradox in *Prescribing the Life of the Mind*:

The university poses a curious and perplexing, but seldom recognized, problem for the theory and practice of liberal government. Liberalism, in any form, stands for freedom of thought and conscience, and for the idea that social institutions ought to reflect individual interests, not determine them. In recent years, much has been made of the point that deliberation and discussion in a liberal democratic society must not be prefigured. It must be undistorted and undominated. This is to say, at the outset at least, all opinions count the same. Neither the force of tradition nor the judgment of the 'best qualified' should set preconditions for the debate, should establish *in advance* what is sounder and wiser, what is foolish and beside the point. Yet it is precisely the purpose of the university to set the standards of truth seeking for a society, to stipulate the rules that distinguish good sense from nonsense, truth from error, excellence from mediocrity. And it is understood that the educational function of the university is to attempt to *shape* thought and conscience, apparently in complete contradiction to liberal logic (Anderson 1993, ix).

Anderson writes that the “intrinsic purpose” of the university is to promote intellectual exploration (Anderson 1993, 54). The university teaches *how* to think, rather than *what* to think. On the other hand, the university must create competent members of the body politic who are capable of effective civic engagement and who will not “endanger the social fabric” (Anderson 1993, 150). He explains, “The university exists to prescribe the life of the mind. It cannot, even if it wanted to, avoid making distinctions between the better and the worse habits of thought, for this is simply what universities do. It is inherent in their purpose. And the distinctive characteristics of these institutions leads us in the end to a straightforward question of political organization” (Anderson 1993, 146). Anderson posits that “the ideal conditions of democracy,” including equal opportunity for individuals to express opinions and equal consideration of all political preferences, are

contrary to practicality (Anderson 1993, 147). Liberal democrats, he notes, nurture a certain mindset of enlightened self-interest and civic virtue and eschew other political philosophies. But, is it necessary for all those who attend liberal democratic institutions to ascribe to liberal democratic ideals? If they do not, how does setting a liberal democratic curriculum inherently undermine the liberal democratic tradition of intellectual exploration?

When universities encounter a dilemma between pluralistic intellectual exploration and authoritative paternalism, University of Illinois professor Phillip Monypenny places primacy with the learning process above all else. He states, “When there is a conflict of obligations, it is the university's obligation to prepare people for the independent pursuit of knowledge which must have the first claim on energy and resources” (Monypenny 1966). This somewhat radical assertion is tempered by his emphasis on deliberation in a university setting: “...since all control of conduct rests largely on the consent of those controlled, the practical advantages of consultation and participation [in determining regulation of the conduct of students] are apparent” (Monypenny 1966). For example, William and Mary’s Honor system, which includes a student-run adjudication process and administrative appeals process, garners both student and faculty buy-in. He suggests that the battle in universities between authority and pluralism is remedied by a university administration's engagement with its students and employees as decision-makers.

Elements of authority and pluralism are evident in the infrastructure and ideology of William and Mary. The Faculty Assembly, for example, creates the academic curriculum of the College through deliberative conversations, but the Board of Visitors

must approve it, exercising authority. In the case of the Wren cross controversy, Nichol championed his notion of pluralism by promoting faith-based and secular use of the Wren Chapel, but STWC perceived his actions to be authoritative. Nichol supporters, on the other hand, saw STWC as implementing Christian authority on campus and the BOV as muffling pluralism.

### **Authority and Pluralism in the Anglican Church**

Perhaps the most obvious aspect of the Wren Chapel is its historical Anglican identity. However, this intrinsic characteristic is not uncomplicated. Elements of authority and pluralism exist in the history of the Anglican Church, beginning with its founding and continuing through the present day.

The Church of England, which first established the Anglican tradition, renounced papal authority during the reign of King Henry VIII. While the Book of Common Prayer began to dominate Anglican worship, the Anglican Church provided a moderate intellectual alternative between the extremities of Puritanism and Roman Catholicism. William and Mary professor David Holmes writes, “If the Anglican reformers gave up enforcing common theological belief upon England, they emphasized in its place the unity Christians could attain through common prayer” (Holmes 1993, 9). There is evidence that the Church of England, by the nature of its inception, was in opposition to the harsh dictates of absolute authority by any individual church official.

The Church of England was the established church of the colony of Virginia, meaning that the General Assembly supported the church financially and against opposition. Holmes recounts, “This government support bulwarked the Church of England in Virginia during most of the colonial period. Growing slowly but steadily, it

especially flourished in the years between 1680 and 1740. But in time, as is usually the case in church history, state support almost crushed the spiritual life of a Christian church” (Holmes 1993, 20-21). The vestries that governed each Virginia parish were composed of twelve laymen with the power to hire and fire clergy and levy taxes on the parish. These colonial vestries were the first manifestations of the tension between authority and pluralism in the Virginia Anglican tradition. While they were intended to be deliberative groups charged with the daily running of parishes, the vestries “made the established church in Virginia conspicuously the church of the aristocracy...[and] allied the church with the English government's policy of taxation without representation” (Holmes 1993, 21-22). During the American Revolution, the Church of England in the revolting colonies experienced much internal division, because it required prayers for the wellbeing of the British royal family. In many cases, patriots sought to maintain their church loyalties while fighting against the British in the war for independence. The vestries reprised their roles as simultaneously authoritative and pluralist by “work[ing] silently but surely to assist the collapse of the established church” (Holmes 1993, 22). Finally, the Episcopal Church of the United States separated from the Church of England and revised the Book of Common Prayer to reflect new governance in America.

Differentiation between the Episcopal Church and the Church of England did not guarantee the Episcopal Church's survival. In fact, a 1784 Virginia General Assembly law relegated the Episcopal Church to equal status with all other Christian denominations in Virginia. The 1802 Glebe Act dramatically diminished Episcopal power in the Commonwealth by mandating that all Virginia Episcopal Churches built before 1777 become public property “when the parish could not maintain regular services in them”

(Holmes 1993, 23). Thus, the line between spiritual and public space blurred considerably, a topic that came to a head with the Wren Chapel controversy. The Episcopal vestry challenged the legislation in the Virginia court of appeals, on which William and Mary law professor St. George Tucker served; their appeal failed, and in 1802, the state took custody over Episcopal property. At this moment, pluralist sentiments in the Commonwealth of Virginia triumphed, reflecting “a post-Revolutionary atmosphere of anti-Episcopalianism and anti-establishmentarianism” (Holmes 1993, 26-27).

Roxane Gwyn emphasizes that the modern-day House of Duties and House of Bishops meetings at the annual Episcopal General Convention demonstrate the “value of deliberation, debate, reflection, and compromise” (Gwyn 2009). She recounts that multiple approaches to liturgy and governance are presented at the conference. Indeed, General Conventions since 1976 have been the sites of controversial and progressive decisions in favor of civil rights, women's ordination, and gay rights. The reference guide for Episcopalians describes Anglican philosophy:

The Anglican balance of authority has been characterized as a 'three-legged stool' which falls if any one of the legs is not upright. It may be distinguished from a tendency in Roman Catholicism to overemphasize tradition relative to scripture and reason, and in certain Protestant churches to overemphasize scripture relative to tradition and reason. The Anglican balancing of the sources of authority has been criticized as clumsy or 'muddy.' It has been associated with the Anglican affinity for seeking the mean between extremes and living the *via media*. It has also been associated with the Anglican willingness to tolerate and comprehend opposing viewpoints instead of imposing tests of orthodoxy or resorting to heresy trials (Armentrout and Slocum 2001, 34).

The Anglican Church prides itself on balance between liturgy and biblical content, adding an element of reason to its operation. Anglicans boast an appreciation for diversity within a hierarchical church structure. Moreover, the Anglican Church is consistent in

acknowledging the tensions between authority and pluralism not only in governance and leadership, but also in church construction and worship.

The concept of sacred space did not play a prominent role in Anglicanism until the Oxford movement during the mid-1800s, in which “high church” Anglicans sought to reintroduce elements of Roman Catholic ritual and liturgy. Holmes notes that Episcopal churches until that point had no exterior embellishments to signify their status as spiritual space. Unlike a modern Episcopal focus on the altar or holy table, colonial Anglicanism focused on the pulpit, which laymen and clergy both used during Sunday services.

Architect Sir Christopher Wren created architectural designs that placed the pulpit in a location where the congregation could both see and hear the activity in it. Anglicans sought to prevent “worship from being a 'dumb show'- something Anglican liturgists considered the contemporary Roman Catholic mass to be” (Holmes 1993, 97). In some cases, events other than religious rites could occur in places of worship. Overall, colonial Anglican architecture before the nineteenth century reflected the concept that places of worship were “houses of the people of God,” rather than “houses of God” (Holmes 1993, 96).

Accordingly, the Wren Chapel, which was built in 1732, played host to both secular and religious gatherings, given its size and central location at the College and in Williamsburg. College records detail numerous instances of secular meetings interspersed with scheduled prayer in the Wren Chapel: students recited their original philosophy compositions in Latin there in the 1770s, used the chapel as an auditorium in the 1830s, held numerous commencement exercises in the chapel until the 1900s, and produced plays in the chapel in the 1920s. One particularly compelling example of the

chapel's mixed use is a highly-attended joint debate by the College's Phoenix and Philomathean societies in the Wren Chapel on February 22, 1875 (L. Kale, personal correspondence, April 7, 2010).

These examples and others illustrate that the Wren Chapel's multipurpose identity did not simply arise in the late 20<sup>th</sup> century. On the contrary, the chapel has facilitated sacred and secular events since its early years. Many of the participants in the Wren cross controversy, including President Nichol and his opponents, incorrectly believed that the College was in a position of choosing between a secular or Anglican identity for the chapel. As we have seen, however, there is ambiguity within Anglican history itself, as well as within the history of how the College has used space. Authoritative and pluralistic elements exist in both.

## Authority and Pluralism in Constitutional Scholarship

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

First Amendment, *Constitution of the United States*

All public space is not deliberative space, because public space is shaped by the expectations and traditions that govern it. Despite state ownership, for example, the Department of Motor Vehicles is ill-suited for debate. It exists for administrative purposes, rather than to facilitate conversation about political issues and community life. Public university spaces, including administrative offices, classrooms, auditoriums, dining halls, and dorm rooms, are both deliberative and non-deliberative. Not all of these spaces have simultaneously pluralist and authoritative legacies. As such, constitutional law regarding the First Amendment must lend a perspective on the purpose and capabilities of state-owned spaces.

The Wren Chapel, as a state-owned space, is subject to the requirements of the first amendment of the Constitution. Both Nichol and the STWC constituency made legal and constitutional arguments employing the language of the first amendment to their advantages. Nichol, trained as a constitutional lawyer, viewed the cross' presence as a threat to free exercise and to secular assembly in the Wren Chapel. Those who opposed Nichol on faith-based grounds claimed to be victims of an attempt to suppress Christianity on campus.



*The Establishment and Free Exercise Clauses*

Columbia University scholar Jagdish Bhagwati characterizes the duality of the establishment and free exercise clauses starkly as “negative” and “positive” freedoms. He writes, “The conventional American view of religious freedom considers it to be what I might call, borrowing philosophical terminology in the debates on liberty, negative religious freedom: that we permit the free exercise of religion. But, we also need to consider what should be called positive religious freedom: that no religion be favored in public space, effectively dominating and marginalizing other religions” (Bhagwati 2004). Constitutional law relating to religious freedom demonstrates authoritative and pluralist perspectives through the free exercise and establishment clauses. The authoritative state limits religious practice in public spaces in order to maintain a secular public. Nevertheless, the state also defends pluralism, expressed in multiple religions as well as the choice not to pursue a religious faith, as it prevents the establishment of a single state religion.

Perhaps the best known establishment clause case to come before the Supreme Court is *Lemon v. Kurtzman* (1971), in which the Supreme Court ruled that government had favored one religion over another when statutes in the laws of Rhode Island and Pennsylvania allowed state aid to Christian educational institutions. Chief Justice Warren Burger wrote that law must primarily have a “secular legislative purpose” and must not produce an “excessive government entanglement with religion” (Lemon v. Kurtzman 1971). This so-called “Lemon Test” is applied on the Supreme and circuit court levels with regards to the establishment of religion. *Lemon* itself embraces the tension between authority and pluralism: it champions religions pluralism by preventing establishment,

but also implements secularism as an authoritative force.

Consistently, *Locke v. Davey* (2004) determined that a Washington state higher education subsidy that excluded those who majored in devotional religious studies was constitutional. The Washington state constitution prohibits the use of public funds for religious exercise. The Supreme Court found that state disfavor of religion does not exist in this case, because there are no sanctions *against* religious activity, only a restriction on bonus funding *for* religious activity. Chief Justice Rehnquist wrote that the Washington state law “imposes neither criminal nor civil sanctions on any type of religious service or rite. It does not deny to ministers the right to participate in the political affairs of the community. And it does not require students to choose between their religious beliefs and receiving a government benefit. The State has merely chosen not to fund a distinct category of instruction” (*Locke v. Davey* 2004). Effectively, Davey's religious expression is not restrained by the subsidy's guidelines, despite his assertion otherwise.

Generally speaking, the state may not distinguish between religious and secular individuals seeking access to the forum of free expression. A state university cannot exclude a student group from using school buildings on the basis of a group's religious viewpoint, according to *Widmar v. Vincent* (1981). Religious organizations share the right to equal access to meeting space provided by public schools to all students.

### *Freedom of Speech and Assembly*

Speech and assembly in the United States exhibit elements of authority and pluralism. Whereas the state may assert its domination when there is legitimate interest in protecting public safety or other public interests, diverse voices are protected by the public's right to assemble and speak when the state lacks a compelling interest to restrict

those rights. Conflicts arise when the state attempts to regulate speech that it deems threatening by implementing selective access to space.

In 1939, the Supreme Court ruled on behalf of the Committee for Industrial Organization that the government could not limit speech or prevent the distribution of literature in public places. Jersey City mayor Frank Hague had violated the First Amendment rights to freedom of assembly and speech by prohibiting labor meetings in public space (Hague v. CIO 1939). By the middle of the 20<sup>th</sup> century, the “conflict over the right to speak became a conflict over who controlled specific spaces” (Mitchell 2003, 7). Thus, the freedoms of speech and assembly could hardly be distinguished from one another. As such, individuals seeking representation and “the formation of political communities” require tangible space in which to speak and act” (Mitchell 2003, 34).

Architecture scholar Anthony Vidler describes “the street as a site of interaction, encounter and support of strangers for each other; the square as a place of gathering and vigil; the corner store as a communicator of information and interchange” (Vidler 2001). Mitchell characterizes the space of which Vidler speaks as “*dedicated* public space,” where the government openly facilitates speech and assembly. There, the government may regulate on the basis of time, place, and manner, but cannot limit speech content itself. Because the government has created these spaces, like “plazas in front of federal buildings or portions of public college campuses,” the state “has a greater right to remove them from public use” (Mitchell 23, 48). The Supreme Court walks a tight line in this regard, as it attempts to both protect and regulate speech. Mitchell writes,

Under U.S. Constitutional law, 'political' speech is afforded a great deal of legal, and even more ideological, protection. The Supreme Court professes itself to be keenly interested in assuring that the state does not 'overly burden' the right to political speech and often goes to impressive lengths to find ways to regulate or even ban certain kinds of speech (and certain messages too) indirectly while at the same time claiming to *protect* the very speech it is prohibiting (Mitchell 2003, 46).

It is obvious that the extent to which certain speech is protected or regulated is predicated upon the space in which expression occurs and the interests of those who control that space.

In the context of the Wren cross controversy, one must consider the freedoms of speech and assembly in conjunction with the Establishment and Free Exercise clauses to adequately evaluate the Wren Chapel as a deliberative forum. President Nichol championed pluralism and free exercise, advocating especially for the rights of non-Christian students to comfortably utilize the space. From Nichol's perspective, the Save the Wren Cross constituency, on the other hand, sought to implement authority and submitted that the decision to remove the cross threatened campus Christians' rights to free speech and assembly. Each of the two perspectives lacked the complexity that the situation required. Like communications media, which may be privately owned but federally regulated, the Wren Chapel must also have means for public access. Stein writes, "Allowing private property ownership to invalidate the public forum status of public access television puts the cart before the horse. Rather than categorize types of property and then invoke the attendant speech rights, the courts must ask what social values are to be privileged in the property regimes the courts construct" (Stein 2000). The same applies to the Wren Chapel and other historical chapels at public universities. The university community must ask what values and traditions govern the space before

categorizing the space in a way that is insensitive to the ambiguities therein.

### **The History of the College**

President Nichol and his opponents both spoke as though the College had a uniformly religious early history followed, for better or for worse, by a secular present. However, the College's history is actually far more complex than either side assumed it to be. *A History of William and Mary* reports that the College of the late 1790s and early 1800s facilitated religious and political radicalism. Despite the fact that the President of the College was an Episcopal bishop, students reported that religious skepticism reigned on campus. The majority of students and faculty identified as Republicans and scorned Hamilton and other Federalists. William and Mary was not, however, "unusually...irreligious" (Johnson 1993, 183). Students at campuses nationwide were engaging in violent antireligious behavior and movements in favor of secular education, including a mock Communion ceremony at Yale, property destruction at Princeton, and physical assaults on faculty at the University of North Carolina (Johnson 1993, 183).

Though the state did not take ownership of the College until 1906, Virginians began expressing discomfort in Anglican control of William and Mary as early as the late 1700s. This "era of Anglophobia" plagued Bishop Madison until his death and the end of his term in 1812 (Johnson 1993, 195). Madison had attempted to uphold the Anglican evangelical mission of the College while also "urging tax support for all [Christian] denominations" (Johnson 1993, 186). Madison was an Anglican republican, of whom both Anglicans and republicans were suspicious.

The College's ties with the American Episcopal Church in the 1800s varied according to funding and ideology. In the mid-1800s, "antiepiscope people" stated that

the College would suffer with increased ties to the church, because non-Episcopalians would be less likely to attend (Johnson 1993, 268). However, a member of the Board of Visitors suggested that the College would be unable to crawl out of financial turmoil if it did not rely on the Episcopal Church for funding. As such, in 1849, the Board of Visitors elected a bishop to the presidency and required students to attend prayers and services. Nevertheless, an 1874 Board of Visitors meeting yielded a resolution asking for assistance from all Christian denominations and denying a direct link between the College and the Episcopal Church.

When the College still required students to attend religious services in the 1920s, many students demanded that attendance at religious assemblies become optional. If the College required attendance at any event, the students insisted that that event have no religious purpose. Presidents Chandler and Bryan responded positively to these suggestions and gradually “recognized the changes in the composition of the student body and the nature of the College” (Sherman 1993, 600). In doing so, they acknowledged that increasing diversity in the student body mandated a pluralistic attitude.

While President Nichol may appear as a radical descendant of the movement to secularize William and Mary, it seems more appropriate that his role in the Wren cross controversy be viewed as his attempt to hyper-religionize the College. In an e-mail to the student body on December 20, 2006, Nichol suggested that the presence of the Anglican cross in the Wren Chapel created an establishment of religion. He wrote, “it is the very vitality and the increasing diversity of our religious community that calls for a more encompassing and accessible use of the Wren” (G. Nichol, personal correspondence,

December 20, 2006). He invoked the notion of free exercise by arguing that the cross made it impossible for students of all religious faiths or no faith to utilize the Wren Chapel.

Nichol acknowledged, as controversy began to stir, that his actions were perhaps contrary to several traditions at William and Mary, including Anglican history and campus deliberation. He wrote that his detractors worried that he “failed to understand and sufficiently value the storied traditions of the College (G. Nichol, personal correspondence, December 20, 2006). He also apologized for making the cross decision unilaterally and pledged to keep the campus better informed and more involved in future judgments, noting that the campus community is “accustomed to fuller and more appealing explanations.” Nevertheless, he clung tightly to constitutional grounds, even as he announced his resignation, stating that the removal of the cross “was likely required by any effective notion of separation of church and state (G. Nichol, personal correspondence, February 12, 2007).

## **Conclusion**

Arguments made by participants in the Wren cross controversy reveal that discursive traditions govern the identity of the Wren Chapel: university ideology and the history of the College, Anglican customs, and constitutional law. Tensions exist between each of these interpretive traditions, but each tradition also contains tension between the authoritative and pluralistic elements within it. Thus, as opposed to the one-dimensional strategies employed by those engaged in the controversy, deliberation is a fitting solution to relieve the tension of deliberative traditions or to celebrate the multidimensional nature of the College and the spaces in it.

Of course, traditions are not immutable. History is rewritten and modified; memories are created and fabricated. Nevertheless, the implicit recognition of competing and collaborating traditions in the arguments of Nichol and STWC, as well as the language used by the BOV, illustrates the resilience of deliberation. The tension between hierarchical unified authority and pluralism ultimately remains present, despite the non-deliberative practices employed by the parties involved.

The use of the Wren Chapel as a frame through which to view the purpose of universities, Anglican Church history, and constitutional law is not a spatial metaphor, so much as it *is* the physical manifestation of the collision of all of these traditions. Wren Chapel, as a space, actually facilitates the meta-deliberation I promote. The chapel's historic value and maintenance by the College of William and Mary and Colonial Williamsburg demonstrate its public character and mandate that such character reflect the traditions within it and the elements of authority and pluralism in each of those traditions.

This is the *crux of the matter*: the College of William and Mary is composed of deliberative traditions, but rarely makes campus-wide decisions deliberately. There are pockets of deliberation on campus, including the Faculty Assembly and some elements of student governance, but the community expectation for conversation and discussion is not fully institutionalized. The potential for deliberation is further undermined when powerful outside interests, such as political parties, state legislators, or donors, intervene to the detriment of the campus. As evidenced by the Wren cross controversy, the prospect for deliberation dissolves in stressful moments: Nichol resorted to implementing his pluralistic vision using authoritative unilateralism, and the Board of Visitors established a committee to resolve the matter but disbanded it and destroyed its website



shortly thereafter. In the Wren cross controversy, the players demonstrated a devotion to outcome despite rhetoric of process-oriented thinking. In the future, the College should cease to act contrary to the nature of the traditions within it and should wholly embrace deliberative decision-making.

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